

173-495 WEATHER MODIFICATION

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173-495-010 PURPOSE.

This chapter, promulgated under chapters 43.37 and 70.94 RCW establishes the responsibilities for the supervision and control of all weather modification activities within the state, and representation by the state in all interstate contacts relating to weather modification and control. This regulation provides the basic framework for carrying out the state's responsibility for such a program through the establishment of license and permit requirements and procedures, reporting, and fee requirements. The provisions of this chapter shall apply to all weather modification activities in all parts of the state except as specifically exempted in this chapter.

[Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-495-010, filed 9/17/90, effective 10/18/90; Order DE 77-29, § 173-495-010, filed 12/29/77. Formerly chapter 508-20 WAC.]

173-495-020 DEFINITIONS.

The definitions of terms contained in chapter 173-400 WAC are incorporated into this chapter by reference. Unless a different meaning is clearly required by context, words and phrases as used in this chapter shall have the following meanings:

- (1) "Operation" means the performance of weather modification and control activities using a single permit or license under contract for the purpose of producing or attempting to produce a weather modifying effect within a geographical area.
- (2) "Research and development" means theoretical analysis, exploration and experimentation, and the extension of investigative findings of theories of a scientific or technical nature into practical application for experimental and demonstration purposes. This includes the experimental production and testing of models, devices, equipment, materials, and processing.

- (3) "Weather modification and control" means changing or attempting to change or control by artificial methods, the natural development of any or all atmospheric cloud forms or precipitation forms which occur in the troposphere.

[Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-495-020, filed 9/17/90, effective 10/18/90; Order DE 77-29, § 173-495-020, filed 12/29/77. Formerly chapter 508-20 WAC.]

173-495-030 REQUIREMENT FOR LICENSES AND PERMITS.

No person shall engage in weather modification activities except under and in accordance with a license and a permit issued by ecology, unless specifically exempt from this requirement in WAC 173-495-040.

[Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-495-030, filed 9/17/90, effective 10/18/90; Order DE 77-29, § 173-495-030, filed 12/29/77. Formerly chapter 508-20 WAC.]

173-495-040 REQUIREMENTS FOR EXEMPT ACTIVITIES.

The following weather modification and control activity shall be exempt from the license requirement of RCW 43.37.100, the permit requirements of RCW 43.37.100, and the liability requirements of RCW 43.37.190:

- (1) All research and experiments related to weather modification control conducted within laboratories.
- (2) Those weather modification operations designed to alleviate sudden, unexpected, hazardous conditions which require expeditious localized action for:
 - (a) Protection against fire
 - (b) Prevention of frost
 - (c) Dispersal of fog
- (3) Field research and development by institutions of higher learning.
- (4) Any person(s) proposing to conduct weather modification and control activities as described in subsection (2) of this section shall notify air programs, department of ecology, headquarters offices in Olympia, Washington, before proceeding of the type of activity to be carried out, the person carrying out the activity and the materials and technique of application to be used.
- (5) Any person proposing to conduct weather modification and control activities as described in subsection (3) above shall provide a written description of the proposed program, notice of actual operations ten days prior to commencement, and quarterly reports of

operations and status to the Headquarters Office Department of Ecology, Olympia, Washington.

[Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-495-040, filed 9/17/90, effective 10/18/90; Order DE 77-29, § 173-495-040, filed 12/29/77. Formerly chapter 508-20 WAC.]

173-495-045 REQUIREMENTS FOR A REGULAR LICENSE.

All applicants for a weather modification license shall be certified professional members of the American Meteorological Society or possess the academic achievements and professional experience necessary to receive such certification. In cases where the applicant is an organization, the individual or individuals who will be in control and in charge of the weather modification and control activities shall be required to meet the above standard.

[Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-495-045, filed 9/17/90, effective 10/18/90; Order DE 77-29, § 173-495-045, filed 12/29/77. Formerly chapter 508-20 WAC.]

173-495-050 REQUIREMENTS FOR A RESTRICTED LICENSE.

- (1) A restricted license may be issued to an applicant when:
 - (a) The applicant's proposed weather modification activities are limited solely to those designed to disperse fog over airports; and
 - (b) The applicant will be fully advised of the pertinent weather information by the meteorologist on duty during the airport fog dispersal activities.
- (2) Applicants for restricted licenses are not required to meet the qualifications otherwise imposed by WAC 173-495-040.

[Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-495-050, filed 9/17/90, effective 10/18/90; Order DE 77-29, § 173-495-050, filed 12/29/77. Formerly chapter 508-20 WAC.]

173-495-060 PROCEDURES FOR ISSUING LICENSE.

- (1) Any person or organization desiring to obtain a license or restricted license shall make an application to ecology on the form prescribed, listing name, business address, etc.
- (2) Ecology may require additional information of the applicant to determine competency in the field of meteorology. Such additional information shall be requested of the applicant by certified mail, and shall be submitted in writing.

- (3) Prior to the issuance of any license, the applicant shall pay a fee of \$100 to the state of Washington.
- (4) The application shall be deemed received by ecology when received at the Headquarters Offices, Department of Ecology, Olympia, Washington, 98504.

[Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-495-060, filed 9/17/90, effective 10/18/90; Order DE 77-29, § 173-495-060, filed 12/29/77. Formerly chapter 508-20 WAC.]

173-495-065 PERIOD OF LICENSE.

- (1) Licenses issued pursuant to chapter 43.37 RCW and these regulations shall be effective for a period of one year, to terminate at the end of the calendar year of issuance.
- (2) No later than thirty days prior to the end of the calendar year, the licensee may request a renewal of the license. Ecology shall review the license renewal request after receiving a renewal fee of one hundred dollars made payable to the state of Washington.
- (3) In the determination of whether or not to grant a license renewal, ecology shall consider information provided by the applicant of the facts and circumstances used to issue the original permit that were changed or altered. If ecology determines that the licensee no longer meets the requirements of competency in the field of meteorology, ecology may refuse to renew said license.

[Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-495-065, filed 9/17/90, effective 10/18/90; Order DE 77-29, § 173-495-065, filed 12/29/77. Formerly chapter 508-20 WAC.]

173-495-070 PERMIT REQUIREMENTS.

- (1) Each weather modification operation not specifically exempted by statute or these regulations shall require a permit. A separate permit shall be issued for each operation.
- (2) A license holder desiring to conduct a weather modification operation shall submit an application for a permit to ecology.
- (3) The permit applicant must hold a valid weather modification license from the state of Washington.
- (4) The applicant shall publish notice of intention at least once a week for three consecutive weeks in a legal newspaper having general circulation and published within any county in which the operation is to be conducted or affected. If no legal newspaper is published within the appropriate county, publication shall be made in a legal newspaper having a general circulation within the county.
- (5) Proof of publication of the notice of intention shall be filed by the licensee with ecology within fifteen days from the date of last publication of the notice.

- (6) The notice of intention shall contain at least the following:
 - (a) The name and address of the licensee;
 - (b) The nature and object of the intended operation and the person or organization on whose behalf it is to be conducted;
 - (c) The area in which and the appropriate time during which the operation will be conducted;
 - (d) The area intended to be affected by the operation; and
 - (e) The materials and methods to be used in conducting the operation.
- (7) The applicant shall furnish proof of financial responsibility, as described in WAC 173-495-120 of this chapter.
- (8) The applicant shall pay a permit fee of one and one-half percent of the estimated cost of the operation. The estimated cost will be computed by ecology from available data.
- (9) Prior to issuance of a permit, ecology shall state in writing that the weather modification and control activities proposed have been determined to be for the general welfare and public good.
- (10) Ecology shall hold an open public hearing at its headquarters office in Olympia prior to any such permit issuance.

[Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-495-070, filed 9/17/90, effective 10/18/90; Order DE 77-29, § 173-495-070, filed 12/29/77. Formerly chapter 508-20 WAC.]

173-495-080 PERMITTEE'S REPORT OF OPERATIONS--REQUIREMENT.

The permittee shall be required to maintain reports on all operations on a daily basis, and submit twice a month (1st day and 15th day) to ecology. The semi-monthly reports shall include the following information:

- (1) Number of days under contract.
- (2) Number of days of operation and number of hours of each day, for all stations operated.
- (3) The consumption rate and name of seeding agent used.
- (4) A brief summary statement evaluating the past fifteen day period in regard to the seeding potential and experience.
- (5) Location of operations.
- (6) Name and mailing address of each individual, other than the licensee, participating or assisting in the operation.

- (7) A brief statement of projected plans for the coming fifteen day period.
- (8) In the event operations are unexpectedly terminated, a special report covering that fraction of the half-month period of operation is required. All reports must be post-marked not later than one day after due date.
- (9) All such records are public records which shall be open to public inspection.

[Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-495-080, filed 9/17/90, effective 10/18/90; Order DE 77-29, § 173-495-080, filed 12/29/77. Formerly chapter 508-20 WAC.]

173-495-100 REVOCATION, SUSPENSION, MODIFICATION.

- (1) All permits authorized by RCW 43.37.110 shall contain the following provisions:
"Ecology may, if it appears that continuing operation under this permit will cause immediate injury to persons or property, terminate or otherwise modify the terms of this permit in order to alleviate an emergency situation by giving notice to the permittee by telegram or other writing."
- (2) All permits authorized by RCW 43.37.110 may be revoked, suspended, or modified when ecology has reason to believe that good cause exists and that the revocation, suspension, or modification is required for the general welfare and public good. Any such revocation, suspension, or modification shall not be undertaken prior to written notice by certified mail to the permittee. Opportunity for comment by the permittee shall be allowed. Any final ecology decision shall be in writing.
- (3) In the event the applicant desires to appeal any permit revocation, modification, or suspension action by ecology such appeal must be filed with the pollution control hearings board in Olympia within thirty days of ecology's action. An appeal does not constitute a stay.

[Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-495-100, filed 9/17/90, effective 10/18/90; Order DE 77-29, § 173-495-100, filed 12/29/77. Formerly chapter 508-20 WAC.]

173-495-120 PROOF OF FINANCIAL RESPONSIBILITY.

A permit applicant shall furnish proof of financial responsibility to ecology by one of the following:

- (1) Copy of insurance policy or binder for the operator.
- (2) A current balance sheet showing sufficient assets to demonstrate financial responsibility.
- (3) Bond for safe performance.

- (4) Such other information as the applicant may provide ecology, in writing, if one of the alternate methods contained in subsections (1) through (3) of this section, is not feasible or available, provided the applicant explains the infeasibility or unavailability.

[Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-495-120, filed 9/17/90, effective 10/18/90; Order DE 77-29, § 173-495-120, filed 12/29/77.]